

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 03-1849

United States of America,

Appellee,

v.

Juan Alavid Cortez,

Appellant.

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Appeal from the United States

District Court for the

District of Minnesota.

[UNPUBLISHED]

Submitted: February 5, 2004

Filed: February 26, 2004

Before MELLOY, HANSEN, and COLLOTON, Circuit Judges.

PER CURIAM.

Juan Alavid Cortez pleaded guilty to conspiring to distribute and possess with intent to distribute approximately 452 grams of a substance containing methamphetamine, and aiding and abetting possession with intent to distribute approximately 452 grams of a substance containing methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(B), and 846, and 18 U.S.C. § 2. The district court¹ sentenced Cortez to concurrent terms of 87 months imprisonment on each count, plus

¹The Honorable Richard H. Kyle, United States District Judge for the District of Minnesota.

concurrent terms of 4 years supervised release. On appeal, counsel has filed a brief under Anders v. California, 386 U.S. 738 (1967).

Construing the Anders brief as challenging the district court's denial of requested sentencing reductions, we find no error in Cortez's sentence. First, the district court did not clearly err in denying Cortez a reduction for being a minor participant, as Cortez admitted he acted as a middleman who arranged the drug deal underlying his conviction. See United States v. Thurmon, 278 F.3d 790, 792 (8th Cir. 2002) (standard of review). The district court also did not clearly err in denying Cortez a reduction under the safety-valve provision. See U.S.S.G. § 2D1.1(b)(6); United States v. Alarcon-Garcia, 327 F.3d 719, 721 (8th Cir. 2003) (standard of review; defendant has burden to show entitlement to safety-valve reduction).

Following our independent review of the record, see Penson v. Ohio, 488 U.S. 75 (1988), we find no nonfrivolous issues. Accordingly, we affirm the judgment of the district court. We also grant counsel's motion to withdraw.
